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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/493,686 | 01/28/2000 | Carl Pinsky | 9029-6MIS:jb | 2539 |

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09/03/2002

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EXAMINER

STRECKER, GERARD R

ART UNIT

PAPER NUMBER

2862

DATE MAILED: 09/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/493,686

Applicant(s)

PINSKY ET AL

Examiner

G.R. STRECKER

Group Art Unit

2862

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 6/12/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-31 is/are pending in the application.
- Of the above claim(s) 1-11 and 16-31 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 12-15 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☒ All ☐ Some* ☐ None of the:
 - ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 2862

Claims 1-11 and 16-31 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 5.

Claims 12-15 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. It is not seen that the Hall effect or SQUID magnetometer probe arrangements disclosed are capable of identifying a chemical substance by detecting fluctuations in "spontaneous intra atomic electron and nuclear quantum states" of the chemical substance. The magnetometer probe arrangements would be incapable of discerning that any response to magnetic fields obtained by the magnetometer probes are due to or attributable to fluctuations in spontaneous intra atomic electron and nuclear quantum states of a chemical substance rather than some other magnetic energy phenomena. Sources of magnetic fields are ubiquitous and whether such magnetic fields detected by the disclosed magnetometer probe are produced as a result of spontaneous intra atomic electron and nuclear quantum states would be indeterminable or problematical.

Applicant, referring to the description at pages 11 to 20 of the specification and the specific working Examples, maintains that the claims clearly possess utility. It is the examiner's position, however, that although variations in magnetic field strength measurements may be obtained for different chemical substances, such measurements are not necessarily attributable to "fluctuations in spontaneous intraatomic electron and nuclear quantum states" of the substance.

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill, Jr. et al.

Art Unit: 2862

Hill et al discloses a method of detecting chemical substances utilizing stimulated emission. At column 1, lines 59-65, column 3, lines 55-64, column 5, lines 22-25, Hill et al recognizes that spontaneous emission can be used to detect such substances.

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoenig, Jr. et al (4,620,100) or Schoenig, Jr. et al (4,620,099).

Schoenig, Jr. et al (100') and Schoenig, Jr. et al (099') both disclose systems for detecting a chemical substance by spontaneous emission. See Abstract of Schoenig et al (100') and claim 8 of Schoenig et al (099'). Use of either system would anticipate the recited method.

Pinsky et al (CIP of the present application) is made of record.

Any inquiry concerning this communication should be directed to G. R. Strecker at telephone number (703) 308-4937.

G.R. Strecker/mm

08/29/02

Gerard R. Strecker
GERARD R. STRECKER
PRIMARY EXAMINER